

REMARKS/ARGUMENTS

Claims 1-4, 6-13, 15-21, and 23-25 are pending in the present application. Claims 5, 14 and 22 were canceled; claims 1, 10, and 18 were amended; and claim 26 was added.

Support for the amendments to claims 1, 10, and 18 may be found in the Specification on at least pages 23 through 24. Support for the added claim may be found in the Specification on at least pages 28 through 29 and Figure 7. No new matter has been added by the addition of this claim. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 102, Anticipation

The Examiner has rejected claims 1-4, 6-13, 15-21, and 23-25 under 35 U.S.C. § 102(b) as being anticipated by *Kaneshiro et al., Profile Instrumentation Method and Profile Data Collection Method*, U.S. Patent No. 5,950,003, September 7, 1999 (hereinafter “*Kaneshiro*”). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

Claim 1:

Kaneshiro discloses a method in a data processing system for monitoring the execution a compiled program having a set of groupings, the method comprising: selecting a grouping from the set of groupings (see for example column 8, lines 7-17 "subroutines") for the compiled program to form a selected grouping (see for example column 8, TABLE 1, "start procedure (name, record)");

associating a set of indicators with instructions in the selected grouping within the set of groupings, wherein the set of indicators provides data on the execution of the instructions by a processor executing the instructions (see for example column 13, lines 15-43, "...inserting instructions.. .");

executing the compiled program, wherein data is generated upon encountering an indicator in the set of indicators, the data comprising at least one of a number of times each instruction on the selected grouping has been executed and a number of visits to the selected grouping (see for example column 7, line 65- column 8, line 7); and

collecting the data (see for example column 7, line 65- column 8, line 7).

Office Action dated February 27, 2007, pages 3-4.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or

process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983).

Amended independent claim 1 recites as follows:

1. A method in a data processing system for monitoring the execution of a compiled program having a set of groupings, the method comprising:
 - selecting a grouping from the set of groupings for the compiled program to form a selected grouping;
 - associating a set of indicators with instructions in the selected grouping within the set of groupings, wherein the set of indicators provides data on the execution of the instructions by a processor executing the instructions;
 - executing the compiled program, wherein data is generated in response to a determination that an instruction of the instructions is associated with an indicator in the set of indicators, the data comprising at least one of a number of times each instruction in the selected grouping has been executed and a number of visits to the selected grouping; and
 - collecting the data.

Kaneshiro does not teach all the features of amended independent claim 1. Specifically *Kaneshiro* does not teach the feature of “executing the compiled program, **wherein data is generated in response to a determination that an instruction of the instructions is associated with an indicator in the set of indicators**, the data comprising at least one of a number of times each instruction in the selected grouping has been executed and a number of visits to the selected grouping.” *Kaneshiro* does not teach determining if an instruction is associated with an indicator or generating data in response to a determination that the instruction is associated with an indicator. The Office Action alleges that this limitation is taught by *Kaneshiro* in column 7, line 66 through column 8, line 7, which is reproduced below for the Examiner’s convenience:

Three types of information are collected during profiling - an elapsed time, invocation and iteration counts, and a dynamic call tree. For procedures, loops, and timed regions the total elapsed time is measured. Frequency counts are measured for all structures to be profiled to mark the number of times a statement is executed, the number of times a procedure is executed, the number of iterations in a loop, and the number of times a conditional branch is taken.

(a2) Run-time library interface

The above cited passage of *Kaneshiro* merely teaches what type of data is gathered during profiling. Neither the above cited passage of *Kaneshiro* nor any other passage of *Kaneshiro* teaches the limitation of “executing the compiled program, **wherein data is generated in response to a determination that an instruction of the instructions is associated with an indicator in the set of indicators**, the data comprising at least one of a number of times each instruction in the selected grouping has been executed and a number of visits to the selected grouping.” Thus, *Kaneshiro* fails to anticipate amended independent claim 1, as *Kaneshiro* fails to teach each and every limitation of amended independent claim

1. Independent claims 10 and 18 are computer program product and data processing system counterpart claims of claim 1 and recite similar features. Therefore, the same distinctions that exist between *Kaneshiro* and the claimed invention in amended independent claim 1, exists for amended independent claims 10 and 18.

Therefore, for all the reasons set forth above, Applicants submit that amended independent claims 1, 10, and 18 are in condition for allowance, as the cited prior art reference, *Kaneshiro*, fails to teach each and every element of claims 1, 10, and 18. Thus, the *Kaneshiro* reference fails to anticipate claim 1, 10, and 18. Since claims 2-4, 6-9, 11-13, 15-17, and 19-25 depend from one of claims 1, 10, and 18, the same distinctions that exist between *Kaneshiro* and the claimed invention in claims 1, 10, and 18 exist for these claims. Consequently, it is respectfully urged that the rejection of claims 2-4, 6-9, 11-13, 15-17, and 19-25 have been overcome.

Therefore, the rejection of claims 1-4, 6-13, 15-21, and 23-25 under 35 U.S.C. § 102(b) has been overcome.

Thus, Applicants respectfully request that the rejection of claims 1-4, 6-13, 15-21, and 23-25 under 35 U.S.C. § 102(b) be withdrawn.

Additionally, new independent claim 26 is not taught by *Kaneshiro*. Independent claim 26 recites as follows:

26. A method in a data processing system for monitoring the execution of a compiled program, the method comprising:
receiving a bundle, wherein the bundle comprises a plurality of instructions and wherein the bundle is a multiple of 128 bits;
identifying an instruction out of the plurality of instructions in the bundle;
determining whether the instruction has an associated performance indicator;
responsive to a determination that a performance indicator is associated with the instruction, transmitting a signal to a performance monitor; and
processing the instruction.

Kaneshiro fails to teach the limitations of claim 26. No passage of *Kaneshiro* discusses bundles, receiving bundles, identifying instructions within bundles, determining whether the instruction has an associated performance indicator, or transmitting a signal to a performance monitor in response to a determination that a performance indicator is associated with the instruction. Thus, *Kaneshiro* fails to anticipate claim 26 as *Kaneshiro* fails to teach every limitation of claim 26.

Therefore, for all the reasons set forth above, Applicants submit that independent claim 26 is in condition for allowance, as the cited prior art reference, *Kaneshiro*, fails to teach every element of claim 26. Thus, the *Kaneshiro* reference fails to anticipate claim 26.

II. Conclusion

It is respectfully urged that the subject application is patentable over *Kaneshiro* and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

/Gerald H. Glanzman/

Gerald H. Glanzman
Reg. No. 25,035
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants